

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

LINDA KAY BARBOUR, INDIVIDUALLY, AND
AS EXECUTRIX OF THE ESTATE OF
JOHN MCBEE BARBOUR, AND ON
BEHALF OF ALL WRONGFUL DEATH
BENEFICIARIES OF JOHN MCBEE BARBOUR

PLAINTIFFS

vs.

CIVIL ACTION NO. 4:15CV147-NBB-JMV

KOSCIUSKO MEDICAL CLINIC, KOSCIUSKO
MEDICAL INVESTMENT GROUP, LLC,
PREMIER MEDICAL GROUP OF MISSISSIPPI, LLC,
TIMOTHY M. SOUTH, THE UNITED STATES
OF AMERICA, AND JOHN DOES 1-5

DEFENDANTS

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT

TO: Bobby L. Dallas
Michael T. Jaques
Alicia S. Hall
Sessums Dallas, PLLC
240 Trace Colony Park Drive
Suite One Hundred
Ridgeland, MS 39157
Attorneys for Plaintiffs

Jennifer Burkes
146 Porter Avenue
Biloxi, MS 39530
jpburkeslaw@gmail.com
Attorneys for Plaintiffs

Jay Barbour
jbarbour@hbdblaw.com
Henry, Barbour, DeCell & Bridgeforth, Ltd.
P.O. Box 1569
Yazoo City, MS 39194
Attorney for Plaintiffs

Tommie Williams
twilliams@upshawwilliams.com
James L. Wilson, IV
jwilson@upshawwilliams.com
Upshaw Williams
P.O. Drawer 8230
Greenwood, MS 38935

Timothy M. South
332 Highway 12 W
Kosciusko, MS 39090

Kosciusko Medical Investment Group, LLC
By and through James Withers, Registered Agent
332 Highway 12 W
Kosciusko, MS 39090

Kosciusko Medical Clinic
By and Through Wes Carter
332 Highway 12 W
Kosciusko, MS 39090

Wanda Fancher
Circuit Clerk
Attala County Circuit Court
118 W. Washington Street
Kosciusko, MS 39090

You will please take notice that on the 8th day of October, 2015, Defendant, the United States of America, hand-delivered for filing this Notice of Removal of that certain cause pending in the Circuit Court of Attala County, Mississippi entitled, *Linda Kay Barbour, Individually, and as Executrix of The Estate of John McBee Barbour, and on Behalf of All Wrongful Death Beneficiaries of John McBee Barbour vs. Kosciusko Medical Clinic, Kosciusko Medical Investment Group, LLC, Premier Medical Group of Mississippi, LLC, Timothy M. South, the United States of America, and John Does I-5*, Civil Action No. 15-0033-CV-M, therein, the original Complaint, having been filed by Plaintiffs on February 23, 2015 , in said State Court, and an Amended Complaint having been filed by Plaintiffs on August 17, 2015, which said cause

is now removed to the United States District Court for the Northern District of Mississippi, and is styled as shown in the caption hereof. You will please take due notice of said removal and proceedings in accordance with 28 U.S.C. § 1446. Copies of said removal and proceedings are attached hereto and duly served upon each of you.

II.

Said Defendant, United States of America, upon filing of this Notice of Removal in the United States District Court aforesaid, thereafter duly filed a copy of said Notice of Removal with the Clerk of the Circuit Court of Attala County, Mississippi, and such removal of this cause to the United States District Court has been effected in accordance with 28 U.S.C. §1446.

III.

On or about September 8, 2015, the United States was putatively served with a copy of the following documents:

1. The Amended Complaint in said styled and numbered cause, a true copy of these documents are attached hereto, identified accordingly as collective Exhibit "A".
2. The Summons issued by the State Court in said styled and numbered cause, a true copy of this document is attached hereto, identified accordingly as Exhibit "B".

IV.

The state court Amended Complaint, filed by Plaintiffs on August 17, 2015, alleges Defendants failed to provide reasonably proper and adequate medical services to John McBee Barbour on or about February 26, 2013, and for some time later, and that as a result Mr. Barbour died. Plaintiffs allege that Plaintiffs' decedent, John McKee Barbour, died as a result of negligence committed by, among others, persons who are alleged to be employees of Defendant, United States of America, and thus "if the Clinic's actions are covered by the Federal Tort

Claims Act, then the United States is obligated to defend and indemnify the Clinic and its employees.” See Exhibit “A”, Plaintiffs’ Amended Complaint, ¶30.

V.

Actions for alleged negligent or wrongful acts or omissions of federal employees come within the provisions of the Federal Tort Claims Act. The Federal Tort Claims Act, 28 U.S.C. §§ 1346(b); 2671-2680 (2000) (“FTCA”), provides that a suit against the United States shall be the exclusive remedy for persons with claims for damages resulting from the negligent or wrongful acts or omission of federal employees taken within the scope of his office of employment. 28 U.S.C. § 1346(b)(1). The alleged tort in the Plaintiffs’ Amended Complaint falls within this provision.

VI.

This action is removed under the provisions of 28 U.S.C. §§ 1441, 1446(b) and 2679(b)(1).

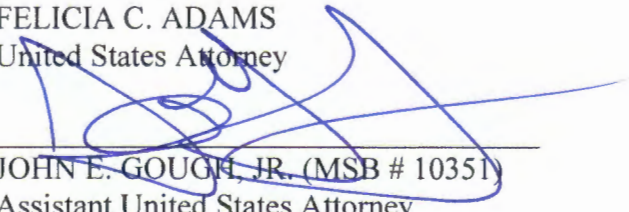
VII.

This Notice of Removal is herewith filed pursuant to 28 U.S.C. § 1446(b), and is being removed without bond prior to trial.

Respectfully submitted,

FELICIA C. ADAMS
United States Attorney

By:



JOHN E. GOUGH, JR. (MSB # 10351)
Assistant United States Attorney
900 Jefferson Avenue
Oxford, MS 38655-3608
(662) 234-3351
(662) 234-3318 (fax)
Email: John.Gough@usdoj.gov

CERTIFICATE OF SERVICE

I, **John E. Gough, Jr.**, Assistant United States Attorney for the Northern District of Mississippi, hereby certify that I have this day served the foregoing **Notice of Removal to the United States District Court**, by mailing, postage prepaid, a true copy of said **Notice** to:

Honorable Clarence E. Morgan, III
Circuit Court Judge
P.O. Box 721
Kosciusko, MS 39090-0721

Bobby L. Dallas
bdallas@sessumsdallas.com
Michael T. Jaques
mjaques@sessumsdallas.com
Alicia S. Hall
ahall@sessumsdallas.com
Sessums Dallas, PLLC
240 Trace Colony Park Drive
Suite One Hundred
Ridgeland, MS 39157
Attorneys for Plaintiffs

Jennifer Burkes
146 Porter Avenue
Biloxi, MS 39530
jpburkeslaw@gmail.com
Attorney for Plaintiffs

Jay Barbour
jbarbour@hbdblaw.com
Henry, Barbour, DeCell & Bridgeforth, Ltd.
P.O. Box 1569
Yazoo City, MS 39194
Attorney for Plaintiffs

Tommie Williams
twilliams@upshawwilliams.com
James L. Wilson, IV
jwilson@upshawwilliams.com
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P.O. Drawer 8230
Greenwood, MS 38935
Attorneys for Premier Medical Group of Mississippi, LLC

Timothy M. South
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This the 8th day of October 2015



JOHN E. GOUGH, JR.
Assistant United States Attorney